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EXAMINER

NGUYEN, THUKHANH T

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/966,996

Applicant(s)

GOLDEN, RANDY

Examiner

Thu Khanh T. Nguyen

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 24-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-23 is/are rejected.
- 7) ☐ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-23, drawn to a lip rolling system, classified in class 425, subclass 341.
  - II. Claims 24-41, drawn to a heating system, classified in class 432, subclass 29.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as heating food article in a food processing system. See MPEP § 806.05(d).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Robert W. Diehl on June 24, 2003 a provisional election was made without traverse to prosecute the invention of group I, claims 1-23. Affirmation of this election must be made by applicant in replying to this Office action. Claims 24-41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 6, 11-13, 19, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber (3,363,283).

Weber teaches a lip forming apparatus, comprising a supply line (42) of nested containers, a screw assembly (20), a directing means (36) with an inclined surface for gravity feeding the container into the screw assembly, a heat source (74) such as air heating, cylindrical heating elements, a heating chamber having an initial position for heating the rims of the containers (col. 4, lines 20-38), wherein the screw assembly (20) comprises a plurality of curling screws (24) that are positioned about an opening (26) through which the containers pass.

7. Claims 1-7, 11-15 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (3,914,102).

Brown teaches an apparatus for folding container rims, comprising a supply line of nested thermoplastic containers (28; col. 3, lines 67-68), a screw assembly (76) positioned to received the nested thermoplastic containers, a mechanism (56) for directing the nested containers toward the screw assembly (col. 6, lines 47-50), a pivotable heat source (42) for folding the container rims; wherein the screw assembly includes a plurality of screw curling (78) mounted on a removable plate (24); wherein the screw curling are stainless steel or chromium plated rolls (col. 2, lines 29-31); the heat source (42) is diverted into two semi-cylindrical sections with a

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plurality of heating elements (48; col. 4, lines 8-21), means (44A) for removing the heat source between a spread positions and closed engaging positions (col. 4, lines 10-15).

8. Claims 1, 4, 6, and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Arends et al (4,391,768).

Arends et al teach an apparatus for curling lips of stacked thermoplastic containers, comprising a supply line (S) of nested thermoplastic containers, a screw assembly (10) receiving the containers, a mechanism for directing the containers toward the screw assembly (col. 3, lines 15-37) which includes three screw curling (Fig. 2, 10), a heat source with different heaters (12, 20, 40) for heating the rims of the containers to about 500°F to 700°F (col. 4, lines 36-42), wherein the screw assembly attached to an end frame (30).

9. Claims 1, 4, 6-7, 14-16 and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamson (6,093,010).

Lamson teaches a lip rolling machine, comprising a supply line (16) of nested thermoplastic containers, a movable screw assembly (20) with a set of curling screws (36), a heating source (18) movable between an operating position to an non-operating position (col. 4, lines 63-65) for heating the cup rims, means (30) attached to the heating source (18) to move the heating source from one position to the other position (col. 5, lines 22-28), the curling screws are mounted to a main plate (23, 26; col. 5, lines 44-47), the screw assembly further comprises an adjustment mechanism (42A, B) for adjusting the guiding rods in accordance to the size of the containers (col. 6, lines 49-54), stabilizers (72) for stabilizing moving arms (60 A, B) for moving the heating source (col. 6, lines 11-12).

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10. Claims 1-4, 6-7, 11, 14-15 and 22-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Lamson (6,164,949).

Lamson teaches a curling screw adjustment mechanism, comprising a supply line (12) of nested containers, a screw assembly (10) with a plurality of curling screws (36) for receiving the nested containers, a mechanism (14) for direct the nested containers toward the screw assembly, and means for moving a heat source (18) between an initial operating position and the non-operating position (col. 4, lines 36-39); wherein the curling screws (36) is removable and affixed to a removable plate (38) in an arrangement specific to a single container size (col. 5, lines 1-14), a temperature controller (27) and a plurality of fluid lines (120) in order to direct and control the heating or cooling of the curling screws (col. 6, lines 24-28).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown ('102) or Lamson ('010) as applied to claims 1, 4, 6-7, 14-16 and 22-23 above, and further in view of Arends (6,135,756).

Brown and Lamson fail to teach a bristled brush for directing the nested containers.

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Arends discloses a pressure forming and stacking apparatus, comprising a plurality of stacking brushes (238) which are mounted on the inside of stackers rods to direct the nested articles (A) along the stacking chutes.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Brown and Lamson by providing a plurality of brushes as taught by Arends ('756), because the brushes would guide and stack the formed articles along the lip curling means.

13. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown ('102) or Lamson ('010) as applied to claims 1, 4, 6-7, 14-16 and 22-23 above, and further in view of Padovani (5,118,277).

Brown and Lamson fail to teach a bristled brush for directing the nested containers.

Padovani teaches an apparatus for forming the edge of containers of synthetic material, comprising a plurality of air jets (36) to apply a jet thrust to each heated-flange container to cause the containers to enter into a mould (col. 2, lines 15-20).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Brown or Lamson by providing a plurality of air jets as taught by Padovani, because the air jets would facilitate the movement of the heated containers from one station to another station during the molding process.

*Allowable Subject Matter*

14. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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15. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach or suggest a lip rolling system comprising a heat source which is automatically movable in response to a control signal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 703-305-7167. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

TN

  
ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1200-1700

8/22/07